

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1406

Chapter 401, Laws of 2005

59th Legislature
2005 Regular Session

SPECIALIZED FOREST PRODUCTS PERMITS

EFFECTIVE DATE: 7/24/05

Passed by the House March 7, 2005
Yeas 96 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 13, 2005
Yeas 45 Nays 0

BRAD OWEN

President of the Senate

Approved May 11, 2005.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1406** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

May 11, 2005 - 2:03 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1406

Passed Legislature - 2005 Regular Session

State of Washington

59th Legislature

2005 Regular Session

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Buck, B. Sullivan, Orcutt, Takko, Kretz, Alexander, Grant, Shabro, Linville and Skinner)

READ FIRST TIME 02/24/05.

1 AN ACT Relating to specialized forest products; amending RCW
2 76.48.020, 76.48.050, 76.48.060, 76.48.070, 76.48.075, 76.48.085,
3 76.48.094, 76.48.096, 76.48.098, 76.48.100, 76.48.110, and 76.48.140;
4 and adding a new section to chapter 76.48 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 76.48.020 and 2000 c 11 s 18 are each amended to read
7 as follows:

8 (~~Unless otherwise required by the context, as used in this~~
9 ~~chapter:~~) The definitions in this section apply throughout this
10 chapter unless the context clearly requires otherwise.

11 (1) "Authorization" means a properly completed preprinted form
12 authorizing the transportation or possession of Christmas trees which
13 contains the information required by RCW 76.48.080, a sample of which
14 is filed before the harvesting occurs with the sheriff of the county in
15 which the harvesting is to occur.

16 (2) "Bill of lading" means a written or printed itemized list or
17 statement of particulars pertinent to the transportation or possession
18 of a specialized forest product.

19 (3) "Cascara bark" means the bark of a Cascara tree.

1 ~~((3))~~ (4) "Cedar processor" means any person who purchases,
2 takes, or retains possession of cedar products or cedar salvage for
3 later sale in the same or modified form following removal and delivery
4 from the land where harvested.

5 ~~((4))~~ (5) "Cedar products" means cedar shakeboards, shake and
6 shingle bolts, and rounds one to three feet in length.

7 ~~((5))~~ (6) "Cedar salvage" means cedar chunks, slabs, stumps, and
8 logs having a volume greater than one cubic foot and being harvested or
9 transported from areas not associated with the concurrent logging of
10 timber stands (a) under a forest practices application approved or
11 notification received by the department of natural resources, or (b)
12 under a contract or permit issued by an agency of the United States
13 government.

14 ~~((6))~~ (7) "Christmas trees" means any evergreen trees or the top
15 thereof, commonly known as Christmas trees, with limbs and branches,
16 with or without roots, including fir, pine, spruce, cedar, and other
17 coniferous species.

18 ~~((7))~~ (8) "Cut or picked evergreen foliage," commonly known as
19 brush, means evergreen boughs, huckleberry, salal, fern, Oregon grape,
20 rhododendron, mosses, bear grass, scotch broom (*Cytisus scoparius*), and
21 other cut or picked evergreen products. "Cut or picked evergreen
22 foliage" does not mean cones, berries, any foliage that does not remain
23 green year-round, or seeds.

24 ~~((8))~~ (9) "Harvest" means to separate, by cutting, prying,
25 picking, peeling, breaking, pulling, splitting, or otherwise removing,
26 a specialized forest product (a) from its physical connection or
27 contact with the land or vegetation upon which it is or was growing or
28 (b) from the position in which it is lying upon the land.

29 ~~((9))~~ (10) "Harvest site" means each location where one or more
30 persons are engaged in harvesting specialized forest products close
31 enough to each other that communication can be conducted with an
32 investigating law enforcement officer in a normal conversational tone.

33 ~~((10))~~ (11) "Landowner" means, with regard to real property, the
34 private owner, the state of Washington or any political subdivision,
35 the federal government, or a person who by deed, contract, or lease has
36 authority to harvest and sell forest products of the property.
37 "Landowner" does not include the purchaser or successful high bidder at
38 a public or private timber sale.

1 ((+11+)) (12) "Native ornamental trees and shrubs" means any trees
2 or shrubs which are not nursery grown and which have been removed from
3 the ground with the roots intact.

4 ((+12+)) (13) "Permit area" means a designated tract of land that
5 may contain single or multiple harvest sites.

6 ((+13+)) (14) "Person" includes the plural and all corporations,
7 foreign or domestic, copartnerships, firms, and associations of
8 persons.

9 ((+14+)) (15) "Processed cedar products" means cedar shakes,
10 shingles, fence posts, hop poles, pickets, stakes, rails, or rounds
11 less than one foot in length.

12 ((+15+)) (16) "Sheriff" means, for the purpose of validating
13 specialized forest products permits, the county sheriff, deputy
14 sheriff, or an authorized employee of the sheriff's office or an agent
15 of the office.

16 ((+16+)) (17) "Specialized forest products" means Christmas trees,
17 native ornamental trees and shrubs, cut or picked evergreen foliage,
18 cedar products, cedar salvage, processed cedar products, specialty
19 wood, wild edible mushrooms, and Cascara bark.

20 ((+17+)) (18) "Specialized forest products permit" means a printed
21 document in a form (~~specified~~) printed by the department of natural
22 resources, or true copy thereof, that is signed by a landowner or his
23 or her authorized agent or representative, referred to in this chapter
24 as "permitters" and validated by the county sheriff and authorizes a
25 designated person, referred to in this chapter as "permittee," who has
26 also signed the permit, to harvest and transport a designated
27 specialized forest product from land owned or controlled and specified
28 by the permittor and that is located in the county where the permit is
29 issued.

30 ((+18+)) (19) "Specialty wood" means wood that is:

31 (a) In logs less than eight feet in length, chunks, slabs, stumps,
32 or burls; and

33 (b) One or more of the following:

34 (i) Of the species western red cedar, Englemann spruce, Sitka
35 spruce, big leaf maple, or western red alder;

36 (ii) Without knots in a portion of the surface area at least
37 twenty-one inches long and seven and a quarter inches wide when
38 measured from the outer surface toward the center; or

1 (iii) Suitable for the purposes of making musical instruments or
2 ornamental boxes.

3 (20) "Specialty wood buyer" means the first person that receives
4 any specialty wood product after it leaves the harvest site.

5 (21) "Specialty wood processor" means any person who purchases,
6 takes, or retains possession of specialty wood products or specialty
7 wood salvage for later sale in the same or modified form following
8 removal and delivery from the land where harvested.

9 (22) "Transportation" means the physical conveyance of specialized
10 forest products outside or off of a harvest site by any means.

11 ~~((+19+))~~ (23) "True copy" means a replica of a validated
12 specialized forest products permit as reproduced by a copy machine
13 capable of effectively reproducing the information contained on the
14 permittee's copy of the specialized forest products permit. A copy is
15 made true by the permittee or the permittee and permittor signing in
16 the space provided on the face of the copy. A true copy will be
17 effective until the expiration date of the specialized forest products
18 permit unless the permittee or the permittee and permittor specify an
19 earlier date. A permittor may require the actual signatures of both
20 the permittee and permittor for execution of a true copy by so
21 indicating in the space provided on the original copy of the
22 specialized forest products permit. A permittee, or, if so indicated,
23 the permittee and permittor, may condition the use of the true copy to
24 harvesting only, transportation only, possession only, or any
25 combination thereof.

26 ~~((+20+))~~ (24) "Wild edible mushrooms" means edible mushrooms not
27 cultivated or propagated by artificial means.

28 **Sec. 2.** RCW 76.48.050 and 1995 c 366 s 4 are each amended to read
29 as follows:

30 Specialized forest products permits shall consist of properly
31 completed permit forms validated by the sheriff of the county in which
32 the specialized forest products are to be harvested. Each permit shall
33 be separately numbered and the issuance of the permits shall be
34 ~~((issued))~~ by consecutive numbers. All specialized forest products
35 permits shall expire at the end of the calendar year in which issued,
36 or sooner, at the discretion of the permittor. A properly completed
37 specialized forest products permit form shall include:

- 1 (1) The date of its execution and expiration;
- 2 (2) The name, address, telephone number, if any, and signature of
3 the permittor;
- 4 (3) The name, address, telephone number, if any, and signature of
5 the permittee;
- 6 (4) The type of specialized forest products to be harvested or
7 transported;
- 8 (5) The approximate amount or volume of specialized forest products
9 to be harvested or transported;
- 10 (6) The legal description of the property from which the
11 specialized forest products are to be harvested or transported,
12 including the name of the county, or the state or province if outside
13 the state of Washington;
- 14 (7) A description by local landmarks of where the harvesting is to
15 occur, or from where the specialized forest products are to be
16 transported;
- 17 (8) ~~((The number from some type of))~~ For cedar products, cedar
18 salvage, and specialty wood, a copy of a map or aerial photograph, with
19 defined permitted boundaries, included as an attachment to the permit;
- 20 (9) A copy of a valid picture identification; and
21 ~~((+9))~~ (10) Any other condition or limitation which the permittor
22 may specify.

23 Except for the harvesting of Christmas trees, the permit or true
24 copy thereof must be carried by the permittee and the permittee's
25 agents and be available for inspection at all times. For the
26 harvesting of Christmas trees only a single permit or true copy thereof
27 is necessary to be available at the harvest site.

28 **Sec. 3.** RCW 76.48.060 and 1995 c 366 s 5 are each amended to read
29 as follows:

30 (1) A specialized forest products permit validated by the county
31 sheriff shall be obtained by a person prior to harvesting from any
32 lands, including his or her own, more than five Christmas trees, more
33 than five native ornamental trees or shrubs, more than five pounds of
34 cut or picked evergreen foliage, any cedar products, cedar salvage,
35 processed cedar products, or more than five pounds of Cascara bark, or
36 more than ~~((three))~~ five United States gallons of a single species of

1 wild edible mushroom (~~and more than an aggregate total of nine United~~
2 ~~States gallons of wild edible mushrooms, plus one wild edible~~
3 ~~mushroom~~)).

4 (2) Specialized forest products permit forms shall be provided by
5 the department of natural resources, and shall be made available
6 through the office of the county sheriff to permittees or permittors in
7 reasonable quantities. A permit form shall be completed in triplicate
8 for each permittor's property on which a permittee harvests specialized
9 forest products. A properly completed permit form shall be mailed or
10 presented for validation to the sheriff of the county in which the
11 specialized forest products are to be harvested.

12 (3) Before a permit form is validated by the sheriff, sufficient
13 personal identification may be required to reasonably identify the
14 person mailing or presenting the permit form and the sheriff may
15 conduct other investigations as deemed necessary to determine the
16 validity of the information alleged on the form. When the sheriff is
17 reasonably satisfied as to the truth of the information, the form shall
18 be validated with the sheriff's validation stamp.

19 (4) Upon validation, the form shall become the specialized forest
20 products permit authorizing the harvesting, possession, or
21 transportation of specialized forest products, subject to any other
22 conditions or limitations which the permittor may specify. Two copies
23 of the permit shall be given or mailed to the permittor, or one copy
24 shall be given or mailed to the permittor and the other copy given or
25 mailed to the permittee. The original permit shall be retained in the
26 office of the county sheriff validating the permit.

27 (5) In the event a single land ownership is situated in two or more
28 counties, a specialized forest product permit shall be completed as to
29 the land situated in each county.

30 (6) While engaged in harvesting of specialized forest products,
31 permittees, or their agents or employees, must have readily available
32 at each harvest site a valid permit or true copy of the permit.

33 **Sec. 4.** RCW 76.48.070 and 1995 c 366 s 6 are each amended to read
34 as follows:

35 (1) Except as provided in RCW 76.48.100 and 76.48.075, it is
36 unlawful for any person (a) to possess, (b) to transport, or (c) to
37 possess and transport within the state of Washington, subject to any

1 other conditions or limitations specified in the specialized forest
2 products permit by the permittor, more than five Christmas trees, more
3 than five native ornamental trees or shrubs, more than five pounds of
4 cut or picked evergreen foliage, any processed cedar products, or more
5 than five pounds of Cascara bark, or more than (~~three~~) five gallons
6 of a single species of wild edible (~~mushrooms and more than an~~
7 ~~aggregate total of nine gallons of wild edible mushrooms, plus one wild~~
8 ~~edible~~) mushroom without having in his or her possession a written
9 authorization, sales invoice, bill of lading, or specialized forest
10 products permit or a true copy thereof evidencing his or her title to
11 or authority to have possession of specialized forest products being so
12 possessed or transported.

13 (2) It is unlawful for any person either (a) to possess, (b) to
14 transport, or (c) to possess and transport within the state of
15 Washington any cedar products (~~or~~), cedar salvage, or specialty wood
16 without having in his or her possession a specialized forest products
17 permit or a true copy thereof evidencing his or her title to or
18 authority to have possession of the materials being so possessed or
19 transported. The specialized forest products permit or true copy are
20 valid to possess, transport, or possess and transport the cedar
21 products, cedar salvage, or specialty wood from the harvest site to the
22 first cedar or specialty wood processor or buyer. For purposes of this
23 subsection, a true copy requires the actual signatures of both the
24 permittee and the permittor for the execution of a true copy.

25 **Sec. 5.** RCW 76.48.075 and 1995 c 366 s 7 are each amended to read
26 as follows:

27 (1) It is unlawful for any person to transport or cause to be
28 transported into this state from any other state or province
29 specialized forest products, except those harvested from that person's
30 own property, without: (a) First acquiring and having readily
31 available for inspection a document indicating the true origin of the
32 specialized forest products as being outside the state, or (b) without
33 acquiring a specialized forest products permit as provided in
34 subsection (4) of this section.

35 (2) Any person transporting or causing to be transported
36 specialized forest products into this state from any other state or
37 province shall, upon request of any person to whom the specialized

1 forest products are sold or delivered or upon request of any law
2 enforcement officer, prepare and sign a statement indicating the true
3 origin of the specialized forest products, the date of delivery, and
4 the license number of the vehicle making delivery, and shall leave the
5 statement with the person making the request.

6 (3) It is unlawful for any person to possess specialized forest
7 products, transported into this state, with knowledge that the products
8 were introduced into this state in violation of this chapter.

9 (4) When any person transporting or causing to be transported into
10 this state specialized forest products elects to acquire a specialized
11 forest products permit, the specialized forest products transported
12 into this state shall be deemed to be harvested in the county of entry,
13 and the sheriff of that county may validate the permit as if the
14 products were so harvested, except that the permit shall also indicate
15 the actual harvest site outside the state.

16 (5) A cedar or specialty wood processor shall comply with RCW
17 76.48.096 by requiring a person transporting specialized forest
18 products into this state from any other state or province to display a
19 specialized forest products permit, or true copy thereof, or other
20 governmental document indicating the true origin of the specialized
21 forest products as being outside the state. For purposes of this
22 subsection, a true copy requires the actual signatures of both the
23 permittee and the permittor for the execution of a true copy. The
24 cedar or specialty wood processor shall make and maintain a record of
25 the purchase, taking possession, or retention of cedar products and
26 cedar salvage in compliance with RCW 76.48.094.

27 (6) If, under official inquiry, investigation, or other authorized
28 proceeding regarding specialized forest products not covered by a valid
29 specialized forest products permit or other acceptable document, the
30 inspecting law enforcement officer has probable cause to believe that
31 the specialized forest products were harvested in this state or
32 wrongfully obtained in another state or province, the officer may take
33 into custody and detain, for a reasonable time, the specialized forest
34 products, all supporting documents, invoices, and bills of lading, and
35 the vehicle in which the products were transported until the true
36 origin of the specialized forest products can be determined.

1 **Sec. 6.** RCW 76.48.085 and 2000 c 11 s 19 are each amended to read
2 as follows:

3 Buyers who purchase specialized forest products are required to
4 record (1) the permit number; (2) the type of forest product purchased;
5 (3) the permit holder's name; and (4) the amount of forest product
6 purchased. The buyer or processor shall keep a record of this
7 information for a period of one year from the date of purchase and must
8 make the records available for inspection upon demand by authorized
9 enforcement officials.

10 The buyer of specialized forest products must record the license
11 plate number of the vehicle transporting the forest products on the
12 bill of sale, as well as the seller's permit number on the bill of
13 sale. This section shall not apply to transactions involving Christmas
14 trees.

15 This section shall not apply to buyers of specialized forest
16 products at the retail sales level.

17 **Sec. 7.** RCW 76.48.094 and 1979 ex.s. c 94 s 9 are each amended to
18 read as follows:

19 (1) Cedar or specialty wood processors shall make and maintain a
20 record of the purchase, taking possession, or retention of cedar
21 products ~~((and)),~~ cedar salvage, or specialty wood for at least one
22 year after the date of receipt. ~~((The record shall be legible and
23 shall include the date of delivery, the license number of the vehicle
24 delivering the products, the driver's name, and the specialized forest
25 products permit number or the information provided for in RCW
26 76.48.075(5).))~~ The record must be legible and must be made at the
27 time each delivery is made.

28 (2) The bill of lading must accompany all cedar products, cedar
29 salvage, or specialty wood products after the products are received by
30 the cedar or specialty wood processor. The bill of lading must include
31 the specialized forest products permit number or the information
32 provided for in RCW 76.48.075(5) and must also specify:

33 (a) The date of transportation;

34 (b) The name and address of the first cedar or specialty wood
35 processor or buyer who recorded the specialized forest products
36 information;

1 (c) The name and address from where the cedar or specialty wood
2 products are being transported;

3 (d) The name of the person receiving the cedar or specialty wood
4 products;

5 (e) The address to where the cedar or specialty wood products are
6 being transported;

7 (f) The name of the driver;

8 (g) The vehicle license number;

9 (h) The type of cedar or specialty wood product being shipped; and

10 (i) The amount of cedar or specialty wood product being shipped.

11 **Sec. 8.** RCW 76.48.096 and 1995 c 366 s 8 are each amended to read
12 as follows:

13 It is unlawful for any cedar or specialty wood buyer or processor
14 to purchase, take possession, or retain cedar or specialty wood
15 products or cedar salvage subsequent to the harvesting and prior to the
16 retail sale of the products, unless the supplier thereof displays a
17 specialized forest products permit, or true copy thereof that appears
18 to be valid, or obtains the information under RCW 76.48.075(5).

19 **Sec. 9.** RCW 76.48.098 and 1995 c 366 s 9 are each amended to read
20 as follows:

21 Every cedar or specialty wood buyer or processor shall prominently
22 display a valid registration certificate, or copy thereof, obtained
23 from the department of revenue under RCW 82.32.030 at each location
24 where the buyer or processor receives cedar products ~~((or))~~, cedar
25 salvage, or specialty wood.

26 Permittees shall sell cedar products ~~((or))~~, cedar salvage, or
27 specialty wood products only to cedar or specialty wood processors
28 displaying registration certificates which appear to be valid.

29 **Sec. 10.** RCW 76.48.100 and 1995 c 366 s 10 are each amended to
30 read as follows:

31 The provisions of this chapter do not apply to:

32 (1) Nursery grown products.

33 (2) Logs (except as included in the definition of "cedar salvage"
34 under RCW 76.48.020), poles, pilings, or other major forest products
35 from which substantially all of the limbs and branches have been

1 removed, specialty wood, and cedar salvage when harvested concurrently
2 with timber stands (a) under an approved forest practices application
3 or notification, or (b) under a contract or permit issued by an agency
4 of the United States government.

5 (3) The activities of a landowner, his or her agent, or
6 representative, or of a lessee of land in carrying on noncommercial
7 property management, maintenance, or improvements on or in connection
8 with the land of the landowner or lessee.

9 **Sec. 11.** RCW 76.48.110 and 1995 c 366 s 11 are each amended to
10 read as follows:

11 (1) Whenever any law enforcement officer has probable cause to
12 believe that a person is harvesting or is in possession of or
13 transporting specialized forest products in violation of the provisions
14 of this chapter, he or she may, at the time of making an arrest, seize
15 and take possession of any specialized forest products found. If the
16 specialized forest product is a cedar product, cedar salvage, or
17 specialty wood, at the time of making an arrest the law enforcement
18 officer may seize and take possession of any equipment, vehicles,
19 tools, or paperwork. The law enforcement officer shall provide
20 reasonable protection for the equipment, vehicles, tools, paperwork, or
21 specialized forest products involved during the period of litigation or
22 he or she shall dispose of the equipment, vehicles, tools, paperwork,
23 or specialized forest products at the discretion or order of the court
24 before which the arrested person is ordered to appear.

25 (2) Upon any disposition of the case by the court, the court shall
26 make a reasonable effort to return the equipment, vehicles, tools,
27 paperwork, or specialized forest products to its rightful owner or pay
28 the proceeds of any sale of specialized forest products less any
29 reasonable expenses of the sale to the rightful owner. If for any
30 reason, the proceeds of the sale cannot be disposed of to the rightful
31 owner, the proceeds, less the reasonable expenses of the sale, shall be
32 paid to the treasurer of the county in which the violation occurred.
33 The county treasurer shall deposit the same in the county general fund.
34 The return of the equipment, vehicles, tools, paperwork, or specialized
35 forest products or the payment of the proceeds of any sale of products
36 seized to the owner shall not preclude the court from imposing any fine

1 or penalty upon the violator for the violation of the provisions of
2 this chapter.

3 **Sec. 12.** RCW 76.48.140 and 1977 ex.s. c 147 s 15 are each amended
4 to read as follows:

5 All fines collected for violations of any provision of this chapter
6 shall be paid into the general fund of the county treasury of the
7 county in which the violation occurred and distributed equally among
8 the district courts in the county, the county sheriff's office, and the
9 county's general fund.

10 NEW SECTION. **Sec. 13.** A new section is added to chapter 76.48 RCW
11 to read as follows:

12 The department of natural resources is the designated agency to
13 develop and print the specialized forest products permit and distribute
14 it to the county sheriffs. In addition, the department of natural
15 resources shall develop educational material and other printed
16 information for law enforcement, forest landowners, and specialized
17 forest products harvesters, buyers, and processors specific to this
18 chapter.

Passed by the House March 7, 2005.

Passed by the Senate April 13, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.